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DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

21038

FILE: B-206349  
MATTER OF: CMI Corporation

DATE: March 8, 1982

DIGEST:

1. Protest against the contracting agency's requirements of all-or-none method of award, expressly set forth in the Commerce Business Daily synopsis of the procurement, is dismissed as untimely because it was not filed before the closing date for receipt of offers.
2. Protester, which failed to offer all items that were to be awarded on an all-or-none basis, is ineligible for award and is not an "interested party" for the purpose of challenging the contracting agency's cost evaluation of the awardee's offer.

CMI Corporation protests the award by the National Aeronautics and Space Administration (NASA) of a purchase order to International Business Machines Corporation (IBM) for automatic data processing equipment under IBM's Federal Supply Schedule (FSS) contract on an all-or-none basis.

NASA announced its requirements by synopsis in the Commerce Business Daily (CBD) on December 28, 1981. The synopsis provides, among other things, that award for all items will be made on an all-or-none basis to a single vendor. CMI submitted an offer by the January 12, 1982, closing date, but did not offer every item NASA required.

The protester contends that NASA could have purchased most of the equipment from CMI at a cost savings of more than \$60,000 based on life cycle costs and that NASA should have solicited those items for which competition could be obtained separately, citing Interscience Systems, Inc., et al., 59 Comp. Gen. 438 (1980), 80-1 CPD 332, aff'd with modified recommendation, 59 Comp. Gen. 658 (1980), 80-2 CPD 106.

CMI also challenges the manner in which the cost evaluation of IBM's offer was made on various grounds.

We dismiss the protest.

CMI initially protested to NASA by letter of January 21, 1982; NASA denied the protest by letter to the protester dated February 12, 1982. CMI's protest to our Office on the same grounds was filed (received) on February 9, 1982.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1981), require that protests based upon alleged solicitation improprieties which are apparent before the closing date for receipt of offers must be filed before that date. We have held that publication of a procurement in the CBD constitutes constructive notice of the solicitation and its contents. See Micro-Mil, Inc., B-202703, May 1, 1981, 81-1 CPD 335; MTS Systems Corporation, B-200131, September 30, 1980, 80-2 CPD 234. Where, as here, the synopsis serves as the solicitation for the agency's requirements, the protester's failure to object to its terms prior to the closing date for receipt of offers renders the protest untimely. See Data General, B-197776, July 21, 1980, 80-2 CPD 53. CMI's protests against the terms of the December 28 synopsis, filed with NASA and our Office after the closing date, are clearly untimely and will not be considered on the merits.

Because CMI failed to offer all NASA's requirements, it is ineligible for award under the terms announced in the CBD synopsis. Therefore, CMI is not an "interested party" within the context of our Bid Protest Procedures, 4 C.F.R. § 21.1(a) (1981), to challenge the contracting agency's cost evaluation of IBM's offer. See RAH, Inc., B-201664, April 17, 1981, 81-1 CPD 297; de Weaver and Associates, B-200541, January 6, 1981, 81-1 CPD 6.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel